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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,917	01/26/2004	Robert Tomassi	TOMASSI-3	2957
32132	7590	05/24/2005	EXAMINER	
LAMORTE & ASSOCIATES P.C. P.O. BOX 434 YARDLEY, PA 19067			CRAWFORD, GENE O	
			ART UNIT	PAPER NUMBER
			3651	

DATE MAILED: 05/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/764,917

Applicant(s)

TOMASSI, ROBERT

Examiner

Gene O. Crawford

Art Unit

365.1

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

EA

Claim Rejections - 35 USC § 102

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 1-14 are rejected under 35 U.S.C. 102(e) as being anticipated by Seeley.

The vending machine for vending regulated products and method of only permitting authorized users to use the vending machine disclosed by Seeley includes all the claimed features and in particular includes: **(claims 1, 3, 7, 11)** a money validation unit for receiving and validating money, an identification card reader for reading an identification card (column 6, lines 32-37); a biometric characteristic scanner J for reading an actual biometric characteristic from a person standing in front of the vending machine (column 7, lines 20-25); a system controller I for enabling the vending machine to vend the regulated products only after a proper fee has been deposited and data read from the identification card is compared to the actual characteristic read by the biometric scanner (column 7, lines 5-36); **(claims 2, 8, 12)** the biometric characteristic scanner J being one of a fingerprint scanner, retinal scanner, or a voice analyzer (column 7, lines 20-25); **(claims 5, 9, 13)** the vending machine vending a product that can only be sold to potential users over a predetermined age as broadly claimed in that the vending machine of Seeley is capable of distributing music, pictures and/or video material all of which have age limitations with regard to certain content; **(claim 4)** the step of enabling the vending machine only after a potential user has deposited a predetermined fee in the money validation system; and **(claims 6, 10, 14)** the vending machine vending pre-purchased products that are to dispensed only to a potential user

who pre-purchased the product in that stored works/products can be registered for and paid for in advance (column 7, lines 50-54).

Response to Arguments

3. Applicant's arguments filed May 9, 2005 have been fully considered but they are not persuasive. Applicant argues the Seeley patent does not disclose a vending machine that is enabled or disabled. However, Seeley does disclose a vending machine with a portion of the vending machine that is enabled and/or disabled based on biometric information in that it is disclosed that one embodiment includes a combination of the registration interface, biometric interface, match detector, and player (column 8, lines 46-51). Applicant acknowledges on pages 8-9, that Seeley discloses the customer can take the licensed software and when the customer runs the software, the customer again is scanned for a biometric parameter at the point where the software is being used. If the user scan matches the purchaser scan, the software will run since it is being used by an authorized user. In the embodiment disclosed by Seeley including all the elements listed above the vending machine is where the user attempts to play the software and the user is only enabled to play the software at the vending machine as a result of a successful biometric scan and match. Hence, Seeley does disclose a vending machine with a portion of the vending machine that is enabled and/or disabled as broadly claimed. Therefore for the foregoing reasons the claims stand rejected.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

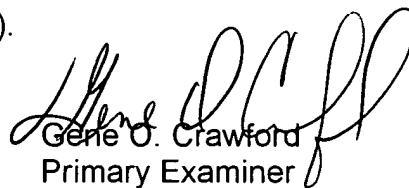
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gene O. Crawford whose telephone number is 571/272-6911. The examiner can normally be reached on Monday thru Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathy Matecki can be reached on 571/272-6951. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3651

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Gene O. Crawford
Primary Examiner
Art Unit 3651
